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CIVIL AND POLITICAL RIGHTS

Note verbale dated 11 June 2001 from the Permanent Mission of Peru to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

The Permanent Mission of Peru to the United Nations and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to refer to the recent establishment in Peru of the Commission on the Truth.

In this connection, the Permanent Mission of Peru would be grateful if the Office of the High Commissioner for Human Rights would have the text of the law establishing the Commission (Supreme Decree No. 65-2001-PCM), attached to this note*, distributed as an official document of the fifty-eighth session, representing a decisive step towards the full implementation of human rights in Peruvian society.

* Reproduced as received in the original Spanish, and in English.

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Annex

SUPREME DECREE NO. 065-2001-PCM

THE PRESIDENT OF THE REPUBLIC

WHEREAS:

The establishment of a Commission on the Truth has been proposed by the inter-agency working group established pursuant to Supreme Decision No. 314-2000-jus;

CONSIDERING:

That, pursuant to article 1 of the Constitution, the protection of the human person and respect for his dignity are the supreme goal of society and the State;

That it is the duty of society and the State to guarantee the full implementation of human rights, as an expression of the supremacy of the human person, the goal and purpose of every democratic system;

That it is the duty of the State to promote and guarantee peaceful coexistence among all members of society;

That in May 1980 terrorist organizations unleashed violence against humanity and that the basic human rights of thousands of Peruvians were violated by those terrorist organizations as well as some State agents, resulting in a tragic series of crimes, disappearances and other serious events which were never brought to light;

That the violence experienced by the country as part of a painful process spanning the last two decades must be fully brought to light, must not be allowed to be forgotten and that the State must guarantee society's right to the truth;

That a democratic State and society must confront the past with determination and without vengeance by bringing all the bitter facts to light while respecting democratic freedoms and principles;

That a Commission on the Truth is an appropriate means both of bringing to light the events involving terrorist violence and serious human rights violations which took place during that period and of ensuring that such events do not recur, by creating the necessary conditions for national reconciliation based on justice;

In conformity with the provisions of article 118, paragraph 24 of the Political Constitution of the State:

With the approval of the Council of Ministers;

DECREES THE FOLLOWING:

Article 1. There is hereby established a Commission on the Truth, whose task shall be to bring to light the process, events and responsibilities involved in the terrorist violence and violations of human rights which took place from May 1980 to November 2000, committed both by terrorist organizations and by State agents, and to propose initiatives to strengthen peace and harmony among Peruvians.

The Commission on the Truth shall aim at achieving national reconciliation, justice and the strengthening of the constitutional democratic regime.

Article 2. The following shall be the Commission's objectives:

(a) To analyse the political, social, and cultural conditions and behaviour, both within society and by State agencies, which contributed to the tragic violence experienced by Peru.

(b) To help the respective courts, when necessary, to bring to light the crimes and human rights violations committed by terrorist organizations and a few State agents, by attempting to determine the victims' whereabouts and situation and identifying, as far as possible, the alleged perpetrators.

(c) To prepare proposals for compensation and rehabilitation of the victims and their relatives.

(d) To recommend institutional, legal, educational and other reforms, as preventive guarantees, to be addressed through legislative, political or administrative initiatives.

(e) To establish mechanisms for follow-up of its recommendations.

Article 3. The Commission on the Truth shall focus its work on the following events, provided they are attributable to terrorist organizations, State agents or paramilitary groups:

(a) Killings and abductions.

(b) Enforced disappearances.

(c) Torture and other serious injury.

(d) Violations of the collective rights of the Andean and native communities of Peru.

(e) Other crimes and serious violations of individual rights.

The Commission shall not have judicial authority and therefore shall not act in lieu of the Judicial Branch or the Public Prosecutor's Office.

Article 4. The Commission on the Truth shall be composed of seven individuals of Peruvian nationality, eminent members of society with high moral standards and known to be defenders of democracy and the constitutional order.

The President of the Republic, with the approval of the Council of Ministers, shall appoint the members of the Commission by supreme decision.

Article 5. Given the exceptional nature of their functions, the members of the Commission on the Truth shall be assigned appropriate security measures at the initiative of the Executive Branch.

The Executive Branch, the members of the armed forces and national police or any other institution, official or agent within the Executive Branch, shall provide the Commission with support and cooperation in the performance of its duties.

The Executive Branch shall cooperate with the other branches of Government in providing support to the Commission on the Truth.

Without prejudice to the foregoing, the Commission on the Truth may, through the Executive Branch, propose and sign special cooperation agreements with the Legislative Branch, the Judicial Branch, the Public Prosecutor's Office and all other institutions granted autonomy under the Constitution.

Article 6. The Commission on the Truth shall enjoy the following powers for the purpose of fulfilling its task:

(a) Interview and collect any information it deems appropriate from individuals, authorities, officials or civil servants.

(b) Seek the cooperation of officials and civil servants for access to Government documentation or other information.

(c) Conduct inspections or any other steps it deems necessary. To that end, it shall receive expert assistance in carrying out its work.

(d) Conduct public hearings and any private proceedings it deems appropriate and withhold the identity of anyone who provides it with important information or participates in the investigations.

(e) Arrange security measures for persons whose lives or physical integrity the Commission deems to be under threat.

(f) The Commission on the Truth shall establish communication channels and mechanisms for participation by the people, especially those persons who were affected by the violence.

(g) Adopt its internal statutes in fulfilment of its objectives and responsibilities.

Article 7. The Commission on the Truth shall begin operating as soon as it is established and continue for a period of 18 months. This period may be extended for a further five months. The Commission shall submit its final report to the President of the Republic and the heads of the other branches of Government. The report shall be published and disseminated throughout society. All testimony and documentation received by the Commission shall be confidential. At the end of its term documentation collected by the Commission shall be submitted, together with an inventory thereof, to the Office of the Ombudsman, with its contents kept strictly confidential. The Executive Branch shall give consideration to the Commission's recommendations, provided they are in conformity with the law.

Article 8. This supreme decree shall be authenticated by the President of the Council of Ministers, the Minister of Defence, the Minister of the Interior and the Minister of Justice.

Final provisions

First. The Commission on the Truth shall establish an Executive Secretariat to support it in the fulfilment of its duties. It may engage the services of professionals in the different technical disciplines necessary for the proper fulfilment of its mandate, including lawyers, sociologists, psychologists, medical experts and experts in forensic anthropology. The organization and duties of the Executive Secretariat shall be set forth in its statutes.

Second. The Commission on the Truth shall be funded through the following:

(a) Resources transferred for that purpose by the Ministry of the Economy and Finance;

(b) Resources assigned to it in the General Budget of the Republic for the forthcoming fiscal years;

(c) Resources it obtains directly from international cooperation;

(d) Resources it receives through donations.

Third. The members of the Commission on the Truth shall be appointed within 30 days of the entry into force of this supreme decree. Once it has been established, the Commission will have 90 days to organize its work and prepare the relevant statutes.

DONE at Government House, Lima, on 2 June 2001.

Valentin Paniagua Corazao
President of the Republic

Javier Pérez de Cuéllar
President, Council of Ministers

Antonio Ketin Vidal Herrera
Minister of the Interior

Walter Ledesma Rebaza
Minister of Defence

Diego García Sayán Larrabure
Minister of Justice

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